



**BY-LAW NUMBER 2017-**

**A By-law of The Corporation of the City of Barrie to require the conveyance of land for a park or other public recreational purposes or the payment of cash in lieu of conveyance as a condition of development or redevelopment and to repeal By-law 89-341 and all amendments thereto.**

**WHEREAS** Section 42 of the *Planning Act, R.S.O. 1990*, chapter P.13 as amended, provides that the Council of a local municipality may by By-law require that land be conveyed to the municipality for park and other public recreational purposes or require the payment of money to the value of the land otherwise required to be conveyed as a condition of development or redevelopment of land;

**AND WHEREAS**, the Council of the City of Barrie wishes to use this provision towards parks or other public recreational purposes;

**AND WHEREAS**, the Council adopted motion 17-G-162 to establish a new by-law requiring lands to be conveyed to the municipality for park and other public recreational purposes or require the payment of money to the value of the land otherwise required to be conveyed as a condition of development or redevelopment of land and to repeal By-law 89-341 and all amendments thereto;

**NOW THEREFORE** the Council of The Corporation of the City of Barrie enacts as follows:

**Definitions**

1. That in this By-law;

**“City”** means The Corporation of the City of Barrie;

**“Council”** means the Municipal Council for the City;

**“commercial purposes”** means the use of the land, building or structure for the purpose of buying and selling commodities or supplying of services as distinguished from such uses as manufacturing or assembling of goods, warehousing and construction;

**“development”** means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot;

**“dwelling unit”** means a suite operated as a housekeeping unit used or intended to be used as a domicile by 1 or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities;

**“gross floor area”** means the total area of all floors in a building, excepting a basement in a residential building, measured from the outside face of the exterior walls, but exclusive of any part of a building which is used for the storage or parking of motor vehicles other than for the automotive purposes defined in the City of Barrie’s Zoning By-law 2009-141, or any successor thereto, for storage, stairwells, or for mechanical or electrical equipment providing services for the entire building. In addition to the exceptions, in calculating the gross floor area for “dwelling, apartment”, the part of the gross corridor areas which are in excess of the minimum corridor areas required under the provisions of the Ontario Building Code and the area occupied by a recreational amenity shall not be included;

**“industrial purposes”** means lands, buildings or structures or units within such buildings or structures to be developed within an industrial zone and described in the list of uses under the “Industrial” category set out in Section 7-2-1 of the City of Barrie’s Zoning By-law 2009-141, or any successor thereto;

**“institutional purposes”** means the use of the land, building or structure developed within an institutional zone as defined or listed as such within the City of Barrie’s Zoning By-law, 2009-141, or any successor thereto, or uses defined or listed as institutional uses within the aforesaid Zoning By-law located in other zones and shall be deemed to include long-term care facilities;

**“Ontario Building Code”** means the *Building Code Act*, 1992, S.O. 1992, c.23 as amended or superseded;

**“Planning Act”** means the *Planning Act*, R.S.O. 1990, c. P.13, as amended or superseded;

**“redevelopment”** means the removal of buildings or structures from land and further development on the land, or the substantial renovation of an existing building or structure;

**“residential purposes”** means lands, buildings, or structures designed or intended to be used as living accommodation for one or more individuals;

**“second suite”** means a second dwelling unit on the same property that is accessory and subordinate to the principle unit, unless otherwise defined within the City of Barrie’s Zoning By-law, 2009-141, or any successor thereto.

2. That this By-law applies to all land within the corporate limits of the City.
3. (1) That as a condition of development or redevelopment of land, the following is hereby required:
  - (a) In the case of land proposed for commercial or industrial purposes, the payment of money to the value of the land otherwise required to be conveyed under paragraph 4(1)(a);
  - (b) In the case of land proposed for institutional purposes, the payment of money to the value of the land otherwise required to be conveyed under paragraph 4(1)(b); and,
  - (c) In all other cases which are not specifically mentioned in paragraphs 3(1)(a) and (b), the payment of money to the value of the land otherwise required to be conveyed under paragraph 4(1)(c).
- (2) That where land is proposed for residential development or redevelopment, the City may require the payment of money to the value of the land otherwise required to be conveyed at a rate of one hectare for each 500 dwelling units or an amount as set out in paragraph 3(1)(c), whichever is the greater of the two.
4. (1) That as an alternative to requiring the payment of money provided for in Section 3, as a condition of development or redevelopment of land, the City may require that:
  - (a) In the case of land proposed for commercial or industrial purposes, 2 per cent (2%) of the land be conveyed to the City;
  - (b) In the case of land proposed for institutional purposes, 5 per cent (5%) of the land be conveyed to the City; and,
  - (c) In all other cases which are not specifically mentioned in paragraphs 4(1)(a) or (b), five percent (5%) of the land be conveyed to the City.
- (2) That where land is proposed for residential development or redevelopment, the City may require that land be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units or an amount as set out in paragraph 4(1)(c), whichever is the greater of the two.
- 5 That where development is proposed on a single parcel of land for a combination of purposes, the predominant use on the land shall be determined and the percentage rate set out in Section 4 for the purpose which corresponds with the predominant use shall be applied to the entire development.
- 6 (1) That where the City’s Site Plan Control By-law enacted under Section 41 of the *Planning Act R.S.O. 1990, c. P.13* as amended, applies to the development or redevelopment of land, then as a condition of the development or the redevelopment of the land, the payment of money pursuant to Section 3 of this By-law, or the conveyance of land pursuant to Section 4 of this By-law as the case may be, shall be made prior to the approval of plans and drawings by the Director of Planning and Building Services, or by his or her designate, under Section 41 of the Planning Act for the land to be developed or redeveloped.

- (2) That where land is not subject to the City's Site Plan Control By-law, the payment of money pursuant to Section 3 of this By-law, or the conveyance of land pursuant to Section 4 of this By-law as the case may be, shall be made prior to the issuance of a building permit for the land to be developed or redeveloped.
- (3) That despite subsection 6(1), as an alternative the City may require that the payment of money pursuant to Section 3 of this By-law, or the conveyance of land pursuant to Section 4 of this By-law as the case may be, shall be made prior to the issuance of a building permit for the land to be developed or redeveloped.
7. (1) That for the purpose of calculating the payment of money under Section 3 of this By-law:
- (a) the value of the land shall be its market value as determined in accordance with Section 42 of the Planning Act, R.S.O. 1990, c. P.13 as amended; and,
- (b) all appraisals of land value shall be prepared in accordance with the Canadian Uniform Standards of Professional Appraisal Practice of the Appraisal Institute of Canada.
- (2) That notwithstanding paragraph 7(1)(a), in the case of residential development where it is proposed to use the alternative requirement of one hectare for each 500 dwelling units, the value of the land may be calculated at such value which is less than its market value in accordance with such formula as contained in any policy that may be approved by Council.
8. (1) That notwithstanding Sections 3, 4 and 6 of this By-law, the conveyance of land or the payment of money in lieu for park or other recreational purposes shall not be required:
- (a) In respect of the construction of additions to any building if a previous conveyance of land or payment of money in lieu was made for the land in connection with the existing building pursuant to Sections 42, 51 or 53 of the *Planning Act, R.S.O. 1990, c. P.13*, as amended unless:
- (i) There is a change in the proposed development or redevelopment which would increase the density of development; or
- (ii) Land originally proposed for development or redevelopment for commercial or industrial purposes is now proposed for development or redevelopment for other purposes;
- (b) In respect of an application for a building permit to replace any building which was razed by fire, by an accidental cause or by an act of God, provided that in the case of a building used for industrial purposes, commercial purposes, and institutional purposes, the size of the replacement building does not exceed the total gross floor area of the prior building which was destroyed;
- (c) In respect of the carrying out of additions or interior alterations to existing buildings used for residential purposes provided there is no increase in the existing number of dwelling units, with the exception of a second suite;
- (d) In respect of the construction of a building to be used for residential purposes only where there previously existed a building on the same land that was used for residential purposes and that previous building was demolished, provided that the total number of dwelling units to be constructed does not exceed the total number of dwelling units that previously existed on the land; or
- (e) In respect of development or redevelopment on lands currently included within the City's parkland inventory.

- (2) That notwithstanding sections 3 and 4 of this By-law, the conveyance of land or the payment of money in lieu for park or other public recreational purposes shall be required in respect of the construction of an addition to or the replacement of a building used for commercial purposes, industrial purposes or institutional purposes in accordance with the following formulas as applicable:

$$(\text{Previous Total GFA}) - (\text{Demolished GFA}) + (\text{New GFA}) = \text{Total New GFA}$$

For Commercial or Industrial purposes:

$$\frac{(\text{New Total GFA} - \text{Previous Total GFA})}{(\text{Previous Total GFA})} \times (\text{Total Market Value}) \times 2\% = \text{CIL owing}$$

For Institutional purposes:

$$\frac{(\text{New Total GFA} - \text{Previous Total GFA})}{(\text{Previous Total GFA})} \times (\text{Total Market Value}) \times 5\% = \text{CIL owing}$$

where:

“GFA” means gross floor area as defined in the City’s Zoning By-law

“Previous Total GFA” means the gross floor area of the existing building

“Demolished GFA” means the gross floor area to be demolished

“New GFA” means the gross floor area being added to the existing building

“Total Market Value” means the market value of the entire property as per Section 42 of the Planning Act

“CIL owing” means the cash in lieu payment for parks purposes owing to the City

9. That subject to subsection 6(1), the General Manager, Community and Corporate Services and his or her designate as identified by the General Manager in writing from time to time with such powers and authority as described by the General Manager, are hereby delegated authority for the implementation of the requirements in this By-law and for the administration of this By-law.
10. That every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to pay a fine, exclusive of costs, and such other penalties, as may be provided for or imposed under the *Provincial Offences Act R.S.O. 1990, c. P.33* as amended.
11. That if this By-law is contravened by any person, in addition to any other remedy and to any penalty imposed by this By-law, the General Manager, Community and Corporate Services or his or her designate, may instruct the City Solicitor to commence and undertake an action against the person to restrain the contravention, or to commence and undertake an action or application for such other remedy as may be appropriate.
12. That By-law 89-341, as amended by By-laws 90-168, 91-31 and 96-62, is hereby repealed.
13. That should any section or part of the By-law be declared or determined by a court or tribunal of competent jurisdiction to be invalid, the remainder of this By-law continue to remain in force and effect.
14. That the title of this By-law shall be the Conveyance of Land or Cash in Lieu for Parks Purposes By-law.
15. That this By-law comes into force on the 1st day of July, 2017.

**READ** a first and second time this 26th day of June 2017.

**READ** a third time and finally passed this 26th day of June 2017.

**THE CORPORATION OF THE CITY OF BARRIE**

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**MAYOR – J.R. LEHMAN**

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**CITY CLERK – DAWN A. MCALPINE**